IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

| LAURIE D. MCFADIN and | § | |
|-------------------------------------|---|-----------------------|
| STACY L. MCFADIN | § | |
| d/b/a Two Bar West, | § | |
| | § | |
| Plaintiffs, | § | CIVIL ACTION NO. |
| V. | § | |
| | § | SA-08-CV-0598 FB (NN) |
| ETERNAL PERSPECTIVES, LLC, | § | |
| LYNN GERBER and | § | |
| WILLIAM GERBER II | § | |
| d/b/a Foxy Roxy's, and | § | |
| d/b/a Eternal Perspective Handbags, | § | |
| | § | |
| Defendants. | § | |

ORDER REGARDING STATUS OF CASE

The matter before the Court is the status of this case.

In their response to plaintiffs' motion for sanctions (docket entry 114), defendants' discussed their "very limited financial resources" and explained that they "are currently in a Chapter 13 bankruptcy in the United States Bankruptcy Court, District of Colorado, Case #07-22080."

The Court has examined the records of the above bankruptcy case, and observed that it was filed on October 22, 2007, with the Chapter 13 plan confirmed on April 22, 2008. The case before this Court was filed on July 25, 2008 against defendants Lynn and William Gerber who are debtors in the Colorado bankruptcy proceeding. Plaintiffs are seeking, <u>inter alia</u>, actual and punitive damages, as well as other attorney's fees and costs. The bankruptcy case has not been dismissed. It appears to the Court that 11 U.S.C. §362 imposes a stay of some or all of these proceedings as

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against at a minimum the individual defendants.

In the interests of justice the plaintiffs are ORDERED to initiate proceedings before the Bankruptcy Court in Colorado to obtain an order lifting the stay or a declaration that the stay has been waived by defendants' conduct in this case, and to submit documentation evidencing their efforts no later than December 1, 2010. Alternatively, plaintiffs are ORDERED to show cause in writing and file same on or before December 1, 2010 why 11 U.S.C. §362 does not operate to stay this proceeding as against the defendants.

SIGNED on November 17, 2010.

NANCY STEIN NOWAK

UNITED STATES MAGISTRATE JUDGE

Mancy Steen Monak